

**Approved – August 12, 2004**  
**ENVIRONMENTAL IMPROVEMENT BOARD**  
**MINUTES OF THE JUNE 11, 2004 MEETING**

The New Mexico Environmental Improvement Board (EIB) Meeting was held on June 11, 2004, at the New Mexico First Judicial District Complex in Santa Fe, New Mexico.

**Item #1: Roll Call**

Members Present: Ms. Gay Dillingham, Chair  
Mr. Clifford Stroud, Vice Chair  
Mr. Gregory Green, Secretary  
Ms. Gwen Wardwell, Member  
Mr. Harold Tso, Member  
Mr. Ken Marsh, Member

Members Absent: Ms. Dolores Herrera, Member

Others Present: Geraldine Madrid-Chavez                      Mary Smith, AGO  
Sandra Ely    David Cohen  
Ana Marie Ortiz    Leslie Barnhart  
Chuck Noble    Richard Minzner  
Jack Malark    Eric Ames  
Don Webber    Gary Alsup  
David Taylor    David Porter Price  
Mike Schneider    Ruben Baca  
Susan Kerry

**Item #2: Approval of Agenda**

The following change was made:

- Move item #8 before item #7.

**ACTION:      Ms. Dillingham made a motion to approve the agenda as amended.**  
**Mr. Stroud seconded. Motion carried unanimously.**

**Item #3: Public Comment Period**

None at this time.

**Item #4: Heads-up on Upcoming Liquid Waste Rules Hearing by Professional Onsite Water Waste Association and NMED.**

Mr. Jack Malark, Home Builders Association, informed the Board that currently Home Builder Association is working with the Environment Department to work on amendment and additions to the Liquid Waste Rules.

Ms. Ana Marie Ortiz, Bureau Chief of the NMED Field Operations, and Susan Kerry, Attorney for Infiltration Systems, requested the Board hold off on setting a hearing until each party got to see the amendments being requested.

Ms. Dillingham announced that the Board was not scheduled to set a hearing.

**Item #5: Approval of the May 4, 2004 meeting minutes.**

**ACTION: Ms. Wardwell made a motion to approve the May 4, 2004 meeting minutes as presented. Mr. Green seconded. Motion carried unanimously.**

**Item #6: EIB ratification of adoption of Convenience Store Regulations, 11.5.6 NMAC, as filed with the State Records Center and Archives on April 29, 2004, and formal adoption of statement of Reasons for Convenience Store Regulations.**

**ACTION: Mr. Stroud made a motion to adopt the ratification of Convenience Store Regulations, 11.5.6 NMAC, as filed with the State Records Center and Archives on April 29, 2004. Mr. Green seconded. Motion carried unanimously.**

**ACTION: Mr. Stroud made a motion to formally adopt the Statement of Reasons for Convenience Store Regulations. Ms. Wardwell seconded. Motion carried unanimously.**

**Item #8: Discussion of pending litigation in the NM Court of Appeals, The New Mexico Petroleum Marketers Association, Indian Capitol Distributing Co., Inc., Hookinson Inc., and Ever-Ready Oil Co., Inc. V. NMEIB (may be closed pursuant to 10-15-1 (H) (7) NMSA 1978)**

**ACTION: Mr. Stroud made a motion that the Board close this meeting pursuant to the Open Meetings Action Section 10-15-1 (H)(7) to discuss the case of the NM Petroleum Marketers Association, Indian Capitol Distributing Co., Inc., Hookinson Inc., and Ever-Ready Oil Co., Inc. vs. the New Mexico Environment Improvement Board. Mr. Green seconded. A roll call vote was taken and the results are as follows:**

Mr. Green	Yes
Mr. Stroud	Yes
Ms. Wardwell	Yes
Ms. Dillingham	Yes
Mr. Tso	Yes
Mr. Marsh	Yes

**Motion carries unanimously.**

**ACTION:** **Mr. Green moved to reconvene the meeting from closed session. Mr. Tso seconded. Motion carried unanimously.**

Mr. Green announced the matters discussed in the closed session were limited only to those specified in the motion to close.

**Item #7:** **Consideration and Decision by EIB on Convenience Store Regulations, 11.5.6 NMAC, Motion for Stay filed by the New Mexico Petroleum Marketers Association, Indian Capitol Distributing Co. Inc., Hookinson Inc., and Ever-Ready Oil Co., Inc.**

Ms. Leslie Barnhart, NMED Assistant General Counsel, Chuck Noble, NMED Assistant General Counsel & Mr. Richard Minzner, Counsel for Petroleum Marketers Association presented a proposed order granting a partial stay of the convenience store rules that were published on April 29, 2004.

The discussion in this matter was transcribed and a copy will remain in the Board's Administrator's office. If you wish you purchase a copy contact Kathy Townsend Court Reporters.

**ACTION:** **Ms. Marsh made a motion to grant the partial stay. Mr. Stroud seconded. Mr. Green offered a friendly amendment to grant the temporary stay until October 1, 2004. At this time the friendly amendment was withdrawn.**

**ACTION:** **Mr. Green made a substitute motion that the Board grants a temporary stay until October 1, 2004. Ms. Wardwell seconded. A roll call vote was taken and the results are as follows:**

Mr. Green	Yes
Mr. Stroud	No
Ms. Wardwell	Yes
Ms. Dillingham	No
Mr. Tso	Yes
Mr. Marsh	No

Motion fails with a 3 – 3 vote.

**Mr. Stroud offered a friendly amendment to Mr. Marsh's motion to have the rules go into effect on October 1, 2004 instead of August 31, 2004. After discussion Mr. Stroud withdrew his friendly amendment.**

**ACTION:** **At this time a roll call vote was taken on Mr. Marsh's original motion to accept the partial stay as presented, and seconded by Mr. Stroud. The results are as follows:**

Mr. Green	No
Mr. Stroud	Yes

<b>Ms. Wardwell</b>	<b>No</b>
<b>Ms. Dillingham</b>	<b>Yes</b>
<b>Mr. Tso</b>	<b>Yes</b>
<b>Mr. Marsh</b>	<b>Yes</b>

**Motion carries with a 4 – 2 vote.**

**Item #9: Hearing and possible decision in the matter of Air Quality Permit issued to Northeast New Mexico Biomass L.L.C. (NENMB) Permit #2939. (EIB 04-03P)**

A public hearing was held at First Judicial District Complex in Santa Fe on June 11, 2004 regarding Petition No. EIB 04-03 at approximately 1:00 p.m. In attendance were Clifford Stroud, Hearing Officer, and the Board Members listed above. This hearing was transcribed and the transcripts will be in the custody of the Administrator. It is available for viewing upon request.

Mr. Clifford Stroud, Hearing Officer, announced that the Hearing would continue on July 2, 2004 .

**Item #10: Other Business**

None at this time.

**Item #11: Next Meeting**

The next regularly scheduled meeting of the Environment Improvement Board is scheduled for July 6, 2004. The Hearing in case # EIB 04-03 will be continued on July 2, 2004.

**Item #12: Adjourn**

Ms. Dillingham adjourned the meeting at 5:00pm.